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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/084,531	02/27/2002	Philip David Cox	15931-US	7701

7590

05/27/2004

Duane A. Coordes
Patent Department
DEERE & COMPANY
One John Deere Place
Moline, IL 61265-8098

EXAMINER

SMITH, JULIE KNECHT

ART UNIT	PAPER NUMBER
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3682

DATE MAILED: 05/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/084,531

Applicant(s)

COX ET AL.

Examiner

Julie K Smith

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 March 2004.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 and 10-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 and 10-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 February 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-6, 8-14 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lewallen (6,213,221) in view of Evans (2,082,944). Lewallen discloses a bearing assembly for an agricultural implement, but does not disclose the bearing assembly as claimed. However, Evans discloses an easy-to-install bearing block structure comprising first and second bearing block sections (1,2), the sections including first and second arc shaped cavities (see fig. 1) for receiving first and second identical half cylinder shaped inserts (3,4), an anti-rotation clip (11) projecting radially inwardly from the bearing block sections and contacting end portions of the bearing block inserts, and removable connector bolts (5) securing the first and second bearing block sections and inserts facilitating easy removal and replacement of the bearing block structure.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the rockshaft bearing of Lewallen with the teachings of Evans to provide a bearing structure that is easy to install and remove without dismantling the structure surrounding it.

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3. Claims 7 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lewallen in view of Evans as applied to claims 1-6, 8-14 and 16 above, and further in view of Rabe (5,688,054). The above reference combination does not disclose the material that the inserts are made of, however, Rabe teaches bearing parts made from a wear-resistant polyethylene material.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the invention of the reference combination set forth above with the teachings of Rabe to make the bearing inserts out of a wear-resistant polyethylene material so as to reduce friction and wear to the bearing assembly, thus increasing its life.

4. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lewallen in view of Evans as applied to claims 1-6, 8-14 and 16 above, and further in view of Novoselsky et al. (6,100,809). The above reference combination discloses a bearing assembly, as claimed, but lacks an audible warning device for indicating wear of the bearing inserts. However, Novoselsky et al. teaches a bearing wear detection system that provides an audible signal when a bearing part wears to a preselected level.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the invention of the reference combination set forth above with the teachings of Novoselsky et al. as it is old and well known in the art to provide bearing assemblies with audible warning systems to detect a preselected level of wear.

Response to Arguments

5. Applicant's arguments filed 3/1/04 have been fully considered but they are not persuasive.

Regarding claims 1 and 11, in response to applicant's argument that the bearing structure of Lewallen cannot simply be substituted with the bearing structure of Evans, the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981).

Regarding claim 15, in response to applicant's argument that Novoselsky et al. is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, the Novoselsky et al. reference teaches a way to detect the wear within a bearing structure.

Conclusion

6. This is an RCE of applicant's earlier Application No. 10/084531. All claims are drawn to the same invention claimed in the earlier application and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the earlier application. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action in this case. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no, however, event will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Julie K Smith whose telephone number is 703-305-3948. The examiner can normally be reached on Monday-Friday, 8-5:30, (Every other Friday off).


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A Bucci can be reached on 703-308-3668. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JKS
Jks

May 25, 2004


DAVID A. BOCCI
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600